

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
SEVENTEENTH REGION

Shawnee, Oklahoma

TDK FERRITES CORPORATION

Employer

and

ARKANSAS REGIONAL COUNCIL OF CARPENTERS

Petitioner

Case 17-RC-12209

DECISION AND DIRECTION OF ELECTION

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, a hearing was held before a hearing officer of the National Labor Relations Board; hereinafter referred to as the Board.

Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its authority in this proceeding to the undersigned.

Upon the entire record in this proceeding, the undersigned finds:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.
2. The Employer is engaged in commerce within the meaning of the Act and it will effectuate the purposes of the Act to assert jurisdiction herein. 1/
3. The labor organization involved claims to represent certain employees of the Employer.
4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.
5. The following employees of the Employer constitute a unit appropriate for the purpose of collective bargaining within the meaning of Section 9(b) of the Act: 2/

All full-time and regular part-time maintenance employees, production technicians, tooling specialists and set-up specialists, excluding all production employees, clerical employees, guards and supervisors as defined in the Act.

DIRECTION OF ELECTION

An election by secret ballot shall be conducted by the undersigned among the employees in the unit(s) found appropriate at the time and place set forth in the notice of election to be issued subsequently, subject to the Board's Rules and Regulations. Eligible to vote are those in the unit(s) who were employed during the payroll period ending immediately preceding the date of this Decision, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. Employees engaged in any economic strike, who have retained their status as strikers and who have not been permanently replaced are also eligible to vote. In addition, in an economic strike which commenced less than 12 months before the election date, employees engaged in such strike who have retained their status as strikers but who have been permanently replaced, as well as their replacements are eligible to vote. Those in the military services of the United States may vote if they appear in person at the polls. Ineligible to vote are employees who have quit or been discharged for cause since the designated payroll period, employees

engaged in a strike who have been discharged for cause since the commencement thereof and who have not been rehired or reinstated before the election date, and employees engaged in an economic strike which commenced more than 12 months before the election date and who have been permanently replaced. Those eligible shall vote whether or not they desire to be represented for collective bargaining purposes by

ARKANSAS REGIONAL COUNCIL OF CARPENTERS

LIST OF VOTERS

In order to insure that all eligible voters may have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters and their addresses which may be used to communicate with them. **Excelsior Underwear, Inc.**, 156 NLRB 1236 (1966); **N.L.R.B. v. Wyman-Gordon Company**, 394 U.S. 759 (1969). Accordingly, it is hereby directed that within 7 days of the date of this Decision, two copies of an election eligibility list, containing the names and addresses of all the eligible voters, shall be filed by the Employer with the undersigned/Officer-in-Charge of the Subregion who shall make the list available to all parties to the election. In order to be timely filed, such list must be received in the Region 17 office on or before **July 18, 2003**. No extension of time to file this list shall be granted except in extraordinary circumstances, nor shall the filing of a request for review operate to stay the requirement here imposed.

RIGHT TO REQUEST REVIEW

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14th Street, N.W., Washington, D.C. 20570. This request must be received by the Board in Washington by **July 25, 2003**.

Dated July 11, 2003

at Overland Park, Kansas

Acting Regional Director, Region 17

1/ The Employer is a Delaware corporation engaged in the manufacturing of ferrite magnets at its Shawnee, Oklahoma, facility, the only facility involved in this case.

2/ The Petitioner seeks a unit of maintenance technicians, tooling specialists, set up specialists and production technicians (identified as “technicians” in the petition, but clarified on the record and in its post-hearing brief) employed by the Employer at its Shawnee, Oklahoma, facility, excluding all office, clerical, production employees, guards and supervisors as defined in the Act. The Employer contends that the petitioned-for unit is inappropriate and, barring a determination that a plant-wide production and maintenance unit is appropriate, seeks dismissal of the petition.

THE ISSUES AND DETERMINATION

The Employer contends that its production and maintenance functions are so highly integrated that carving out the unit requested by the Petitioner would be inappropriate. The Employer argues that production and maintenance employees throughout the facility share a community of interest with the rest of the employees at the plant, as evidenced by, among other things, their common production and maintenance duties, common supervision, common working conditions, their frequent interaction and interchange among employees.

In contrast, the Petitioner contends that employees in the petitioned-for unit comprise four sub-types of the Employer’s maintenance employees and are an appropriate stand-alone maintenance unit. To this end, the Petitioner asserts that maintenance employees have different training and aptitude requirements from production employees, are more highly-skilled, and are typically on the higher end of the pay grade scale. With respect to the overlap between the petitioned-for maintenance

employees and production employees, the Petitioner contends that the involvement of production employees in maintenance is limited to casual assistance of the petitioned-for maintenance employees and minor adjustments to the machines.

For the reasons set forth below, I find that the petitioned-for unit is an appropriate unit for collective bargaining, in that the petitioned-for employees share a substantial community of interest.

THE FACTS

The Facility

The Employer employs approximately 222 employees at its Shawnee facility. The Employer produces ferrite magnets used primarily in electrical motors. The production process includes mixing of ferrite powder and strontium into a slurry in a section of the plant called the “powder house,” the press area where the slurry is formed into the shapes of magnets. In the Kiln area, the formed magnets are baked into solid, hardened magnets. Employees in the grinding area shape magnets into the finished product. The finished magnets are inspected, packaged and sent to shipping in the sorting area. Finally, the magnets are shipped to customers, primarily in the automotive industry.

The Employer ordinarily operates 24 hours per day, 7 days per week, and has 4 rotating shifts: A, B, C and D. Each is a 12 hour shift, with employees working 3 days on, 2 days off, 2 days on and 3 days off. Additionally, there is a “first shift” of employees working 8 hours per day, 5 days per week (usually Monday through Friday).

The Petitioned-For Job Classifications

The record reflects that the following job classifications are the four types of maintenance employees sought by the Petitioner: maintenance, production technicians,

tool specialists and set-up specialists. The record reflects that each of these types of jobs is further defined by its location in the plant (e.g., powder total maintenance technician, discrete press production technician, discrete press tool specialist, loaf press set-up specialists). There are approximately 55 employees currently in these job classifications and there is no evidence that the Employer anticipates a substantial increase or decrease in employment.

Maintenance

The record reflects that employees in various types of maintenance-classified jobs perform maintenance on the various machines, including performing electrical wiring repairs and PLC computer programming. PLC programming is associated with the different steps and modes performed by a press. Area Manager Roger Collins supervises these employees. Most of these employees are categorized as working in the maintenance department, but at least one maintenance employee works in the Press/Kiln department. The maintenance department is not physically separated from the rest of the plant. Rather, the maintenance employees spend their entire shifts on the production floor, repairing machines, cleaning machines and performing preventive maintenance. Collins testified that either he or the maintenance employee receives a work order from a production supervisor to repair a broken machine and the maintenance employees make the repair. If the repair requires more than one person, Collins sends additional maintenance people to assist or, if no maintenance people are available, assigns a production employee to assist. Collins testified that production employees assist maintenance employees on a weekly basis, on average.

The only employee to testify concerning the duties of employees in the maintenance department was tool and die specialist Rufus A. Allen. Since starting with the Employer in 1976, Allen has worked in various production positions, the maintenance department and, as a set-up specialist and, beginning five years ago, in his current position as a tool and die specialist. Allen testified as to the general procedure followed by employees in the event that a machine breaks down. Thus, machines are equipped with lights that turn on in the event of a breakdown. The lights signal maintenance employees that a repair should be made. Allen testified that he has never worked with a production employee when repairing a machine, except that the machine operator often ran the machine, while Allen watched and listened to the machine to determine the problem or to determine whether his repair was successful. Based on his observations of the maintenance position over the years, Allen testified that employees in the maintenance department are required to perform more “high tech” repairs on equipment, such as computer programming.

The record reflects that the Employer uses specific job classifications to categorize these employees. Thus, Employer’s Exhibit 2, a list of all job descriptions, includes senior total maintenance, total maintenance and maintenance specialist. Employer’s Exhibit 1, an operational flow chart, shows the classifications of senior total maintenance, total maintenance and maintenance positions, but does not show any maintenance assistants. The record as a whole supports a finding that the Employer’s maintenance employees include senior total maintenance, total maintenance, maintenance specialists, maintenance assistants and maintenance and that there are currently approximately 20 such employees. Hereinafter, references to “maintenance” employees

include those employees. The record also reflects that these maintenance employees fall in the pay grade range of 8 to 12, although 18 of these employees are in pay grades 10 to 12.

Production Technician

Press production manager Ron O'Shell testified concerning the typical workweek of production technicians assigned to his department. O'Shell holds daily meetings with day shift and night shift production technicians to discuss what machines are in need of repair. O'Shell testified that production technicians spend their typical shifts troubleshooting problems with machines throughout the department. O'Shell estimated that production technicians also replace approximately 10 feed pumps on the presses per month, a task which takes approximately one hour. In addition, production technicians relieve production operators while the operators are on breaks. On occasions where a Production Officer does not show up for work, O'Shell has assigned a production technician to operate the machine.

Grinding Area Production Manager Randy Deathrage testified that production technicians in his department perform both production and maintenance tasks. Thus, production technicians operate grinding machines every day, in addition to their troubleshooting tasks. Deathrage estimated that production technicians in the Grinding Department spent approximately 35-40% of their workweek operating the machines. Likewise, senior production operators are capable of performing some of the maintenance work done by the production technicians. The record reflects that this is limited to adjusting the grinding machines, tasks that Deathrage described as a "little PT maintenance work."

Senior production technician Johnnie Steven Lee testified that his job is to troubleshoot the machinery and perform maintenance work on the machines in the Press Production Department. Lee estimated that various presses in his department are down approximately four to five hours per day, requiring repair. Lee also performs preventative maintenance twice per day and spends other time performing troubleshooting tasks on the machines. According to Lee, production technicians are the first line of repair and production operators notify production technicians first when there is a problem with a machine. If Lee is unable to repair the machine, he either meets with Area Manager Collins to get a maintenance work order or, if a maintenance department employee is available, he asks the maintenance department employee for assistance. Lee has also been called upon by maintenance department employees to assist them in their repairs. On weekend shifts, Lee has sometimes performed maintenance work that ordinarily would be performed by maintenance employees because the maintenance employee is not scheduled.

When Lee fills in for production operators, while the operators take a break or go to lunch, Lee uses that time to ensure that the machines are running correctly, to “thoroughly go through” and “tweak” the equipment as needed. Breaks occur 3 times per shift, for 15 minutes each. Lee testified that he is unable to fill in for the operators if he has maintenance duties that need attention. Lee testified that, on the occasions when a production operator assists him in Lee’s maintenance tasks, the assistance is primarily limited to the production operator handing him tools or operating the machine so that Lee can determine whether the machine is running properly.

The record reflects that approximately 29 production technicians are currently employed, including 1 employee referred to as a powder production technician.

Production technicians are in pay grades 7 and 8.

Set-Up Specialists

Press Production Manager O'Shell also testified as to the typical workweek of the two set-up specialists in his department. These set up specialists are responsible for changing out tools in the press. When the set-up specialists are not setting up tools, they are assigned to perform troubleshooting of the machines, such as that performed by the production technicians.

Employee Rufus A. Allen has worked as a tool and die specialist for five years. Prior to that, Allen was a set-up specialist. During his time as a set-up specialist, Allen installed and removed tools in the presses. As part of these tasks, Allen would "tweak" the machine and make sure it ran properly before turning the machine back over to its operator. Allen estimated that it took him 4 1/2 years to become proficient as a set-up specialist. In his job as tool and die specialist, Allen works with set-up specialists and observes them setting gauges while Allen installs the tool into the machine. Based on his experience as a set-up specialist five years ago and his observations of current set-up specialists, Allen testified that the set-up employees no longer install the tools in machines in his department (a task assigned to the tool specialists) but still set up the gauges and ensure that the machine is running properly. Allen testified that, currently, upon completing the installation of a tool, both he and the set-up specialist observe the Operator operate the machine in order to determine whether it is working properly. Allen also testified that he has had occasion to work with maintenance employees. Allen

testified that he does not work with operators, beyond inspecting a machine while they are operating it to ensure that his repair or installation was successful.

Allen noted that, while set-up specialists carry work tools, production operators do not carry work tools. Allen acknowledged that senior production operators have carried some work tools.

The record reflects that approximately six set up specialists are currently employed. Set-Up specialists are in pay grades 7 and 8.

Tooling Specialists

Senior tooling specialist Gary Don Permetter testified that his job in Dept. 210 is to inspect tools with precision measuring instruments and assemble and install them into the presses. Additionally, tooling specialists in the department remove, disassemble, inspect and make repairs to tools. The tools, weighing thousands of pounds, require the use of a forklift. Permetter testified that he spent approximately 8 hours per shift performing tooling work. Permetter received some training in blueprint reading, precision tooling and basic electricity at a vocational-technical school, paid for by the Employer. Permetter uses his blueprint and precision tooling skills on a daily basis. Permetter works an 8-hour shift. With respect to vacations, Permetter understood that the Employer requires that a tooling specialist in his department (Dept. 210), Alpha Tooling and Discreet Tooling, be scheduled on any given shift so that each of the departments are covered by a tooling specialist. Permetter has operated a press on occasions when a press operator is absent and the press line is short-handed. However, Permetter does not relieve operators when they are on their breaks. Based on his knowledge of the tooling specialists job and the press operator job, Permetter gave his opinion that a press operator

could not perform the job of a tooling specialist. Permitter has assisted maintenance department employees on repairs.

Tooling specialist Allen testified that, when tooling specialists remove a tool from a press, they are required to clean them up, inspect them, and repack the tools. This process involves paperwork, although the record does not reflect the nature of the paperwork. Allen testified that he and the other tooling specialist work both in the production area on the machines and in the Tool Room, a two-room workshop located in the southeast corner of the plant.

The record reflects that approximately five tooling specialists are currently employed. Tooling specialists are in pay grades 8, 9 and 10.

Supervision

The maintenance department, supervised by Area Manager Collins, includes the following maintenance job classifications: senior total maintenance, total maintenance and maintenance. Production technicians, tooling specialists and set-up specialists fall under production areas of the organization charts. The record is clear, and it is undisputed, that, aside from the employees supervised by Area Manager Collins, all other employees in the petitioned-for job classifications are supervised by production supervisors.

Wages and Benefits

The record reflects that employees in the petitioned-for unit earn relatively more than employees excluded from the petitioned-for unit. Thus, Human Resources Director Ron Stravlo testified that the bulk of the employees in the petitioned-for unit are classified in Grades 7 through 12, with one or two in Grade 6. The lower paid employees

at the plant are production operators, which are considered to be an entry-level position at the facility. Most of the production employees fall between pay grades 1 and 5, with a few senior powder operators and powder specialists at grade 9.

With respect to benefits, the record reflects that insurance, a 401(k) plan, a pension and vacation are all available to employees, plant wide. With respect to vacation, Human Resources Director Stravlo testified that each department manager uses a "10% rule" as a guideline when determining the number of employees granted vacation time during a particular week. In this regard, a production supervisor takes into account the entire department in making this determination and does not separate employees in the petitioned-for classifications.

Training Requirements & Tools

The record reflects that production technicians are required to take hydraulics and electrical tests to demonstrate their general knowledge of machinery. The record contains no evidence that production operators are required to demonstrate such knowledge. With respect to tools, the record reflects that employees in the petitioned-for unit are required to use tools. Senior production technician Lee testified that the Employer provides him a rolling toolbox and a few hand and power tools and that he purchased other tools on his own. The record reflects that production operators do not use such work tools. However, there is evidence that senior production operators carry some work tools.

Area Manager Collins testified that there are no formal education or licensing requirements for the maintenance positions. Collins stated that, in past instances where

employees were selected for maintenance positions for which they had no training, they would receive on-the-job training.

Other Terms and Conditions of Employment

The record shows that all production and maintenance employees work under similar terms and conditions of employment.

The record reflects that the Employer provides all employees with an optional uniform allowance through a payroll deduction. The uniforms, provided by another company for the Employer, are worn by some, but not all of the employees. The record reflects that some production technicians wear hats indicating their job classification, but that this is not required.

All employees use the same break rooms and receive the same amount of break time per shifts. All employees can use the various bathrooms located in the facility.

A single human resources department administers the various terms and conditions of employment for all employees. Company policies applicable to all employees are contained in a single employee handbook. Human Resources Manager Stravlo testified that employees are subject to a single complaint procedure and a single discipline procedure.

Prior Bargaining History

The record reflects no prior collective-bargaining history at the facility.

Production Employees

The bulk of the employees at the plant fill a variety of production positions. Human Resources Director Ron Stravlo testified that all shifts at the facility include employees performing production or maintenance duties. Stravlo explained that, at

different times during a given shift, employees who were assigned to perform maintenance also perform production work, and vice versa. Area Manager Collins testified that production employees have performed various maintenance tasks from time to time, including adjusting grinders, adjusting presses, changing motors and changing slurry feed pumps. Collins conceded that the production employees perform these maintenance tasks by themselves only occasionally. Collins also noted that the motors installed by production employees were of the plug-in type and did not require a particular skill.

The record reflects that the employees in the petitioned-for unit are by and large hired from the ranks of production employees. Thus, transfers from production to maintenance are permanent in nature, in the form of job promotions based on experience and skills.

Production employees range from pay grade 1, for an entry-level production operator, to grade 9 for a powder specialist. The record reflects that most production operators are in grades 1-5.

Express Temporary Employees

The record reflects that the Employer and Express Personnel Services jointly employ approximately 15 or 16 production employees. These employees receive pay and benefits from Express under a contract between Express and the Employer. These employees work in entry-level production jobs and can remain in “temporary” status from 2 months to 2 years before they are offered permanent employment with the Employer, depending on the needs of the business. There are no such employees performing work performed by maintenance, production technicians, tool specialists or

set-up specialists. The Petitioner contends that those employees are excluded from the petitioned-for unit and are, therefore, not at issue. The Employer takes the position that such employees are part of an appropriate wall-to-wall unit of production and maintenance employees.

ANALYSIS

The Standard of Review

In determining the appropriateness of a unit, the Board looks first to the petitioned-for bargaining unit and, if it describes an appropriate bargaining unit, the analysis ends. Dezcon, Inc., 295 NLRB 109, 111 (1989). Indeed, Section 9(b) of the Act does not require the Board to identify the *most* appropriate unit, but rather *an* appropriate unit. Morand Brothers Beverage Co., 91 NLRB 409, 418 (1950) *enfd.* 190 F.2d 576 (7th Cir. 1951). A petitioner is not required to seek the most comprehensive grouping of employees unless an appropriate unit compatible with that requested does not exist. P. Ballantine & Sons, 141 NLRB 1103, 1107 (1963). Such a policy aims at guaranteeing employees the fullest freedom in exercising the rights guaranteed by the Act. National Cash Register Co., 166 NLRB 173, 174 (1967). Application of these principles, however, is tempered by Section 9(c)(5) of the Act, which prohibits the Board from finding an appropriate unit based *solely* on the union's extent of organization. Thus, the Board and the United States Supreme Court have held that the extent of organization can be given some, but not controlling, weight in determining the appropriateness of a petitioned-for unit. NLRB v. Metropolitan Life Insurance Co., 380 U.S. 438, 442 *fn.* 4 (1965); and Overnite Transportation Company, 322 NLRB 723 (1996).

In determining whether a petitioned-for unit constitutes an appropriate unit, the Board looks to the community of interest of the employees involved. Determinants used in weighing such interest, among a group of maintenance employees, include the degree of functional integration of the employees sought, the existence of common supervision, the nature of the employees' skills and functions, the interchangeability and contact among employees, and the employees' working conditions. American Cyanamid Co., 131 NLRB 919 (1961). The existence or absence of any single factor is not determinative of the issue. Rather, the Board weighs all relevant facts against each determinant. See, e.g., Texas Empire Pipe Line Co., 88 NLRB 631, fn. 2 (1950) (absence of common supervision is not a per se basis for excluding employees from an appropriate unit).

The Petitioned-For Unit

The Employer asserts that the only appropriate unit is a wall-to-wall unit. The Petitioner seeks a unit limited to maintenance technicians, tooling specialists, set up specialists and production technicians.

The Employer contends that its operations are so highly integrated, as evidenced by the commonalities in working conditions and duties among its employees, that the petitioned-for unit is inappropriate. The Employer asserts that all of its full-time and regular part-time production and maintenance employees share such a strong community of interest that any unit that excludes any portion of them is inappropriate.

The Employer primarily relies on the Board's decision in United States Steel Corp., 192 NLRB 58 (1971). In United States Steel, the Board refused to find a petitioned-for unit of maintenance employees appropriate. Id. at 60. The facilities at

issue in that case carried out research and development functions. *Id.* at 58. The Board made numerous findings that were crucial to its conclusion that “any separate community of interest which the ‘craft’ or ‘maintenance’ employees might enjoy has been largely submerged into the broader community of interests.” *Id.* at 60. The Board found that the maintenance employees’ basic function was to augment the R&D work performed by technicians, which the union sought to exclude. *Id.* at 59. In this regard, the Board noted that the maintenance employees routinely participated in design, construction, maintenance and repair of experimental research equipment used by the technicians. *Id.* For example, maintenance employees and technicians, working in close cooperation, developed, fabricated and constructed a piece of mine splicing equipment. *Id.* The Board found that janitors in the petitioned-for maintenance unit performed only a limited amount of janitorial tasks, with the remainder performed by the technicians. *Id.* The Board observed that technicians used such traditional maintenance tools as torches, pliers, cutoff wheels, and soldering equipment and, in some cases, utilized bricklaying skills. *Id.* In performing these overlapping functions, the Board noted that maintenance employees and technicians performed the same work, used the same tools and worked under common supervision. *Id.*

The record, in the instant matter, reveals that there is substantially less overlap in the duties of maintenance employees and those of production operators. Thus, the record is clear that maintenance employees in the maintenance department, and in other departments, perform computer-programming duties and relatively complex wiring in connection with their repair and maintenance of various machines in the plant. There is no evidence that production employees perform such functions or are even trained to

perform such functions. With respect to production technicians, the record shows that these employees do work in production departments, are supervised by production supervisors and have close contact with production operators. However, the record is clear that these employees' *basic function* is to respond to operators' requests for repairs to the machines. Likewise, set-up specialists and tooling specialists primarily install, and remove machine tools as needed. The record reflects little collaboration between these employees and production operators.

I find this matter to be more akin to Ore-Ida Foods, Inc., 313 NLRB 1016 (1994) than United States Steel. In Ore-Ida Foods, the Board found appropriate a stand-alone unit of maintenance employees. Id. at 1019. Maintenance employees were separately supervised and more highly skilled. With respect to the functional integration of the maintenance and production employees, the Board found that the production employees' role in assisting the maintenance employees to perform their tasks was limited to handing equipment, lifting machinery, or performing minor tasks, which the Board found to be "unskilled and peripheral to the actual repair work performed by the maintenance workers." Id. at 1020. The Board found that the maintenance employees' higher skill level was reflected in the fact that they were clustered in the highest wage rates at the facility. Id. at 1019.

Here, maintenance employees are generally regarded by the Employer as possessing higher skills than production employees. Thus, production positions are at the lower end of the pay grade scale, while employees in the petitioned-for unit occupy the higher end of the scale. While the Employer asserts that production operators perform maintenance tasks, the record reflects that these tasks are, like those of the production

employees in Ore-Ida, “unskilled and peripheral,” ranging from simple (and only occasional) motor or pump installations to simply operating their machines, so that employees in the petitioned-for unit can assess problems or the quality of their repairs. Even in situations where production technicians, tooling specialists and set-up specialists are operating the machines, the record reflects that these employees perform these production tasks both to fill in for absent production operators *and* as part of their continual assessment of the maintenance needs of the machines. I find that the functional integration and employee interaction in the Employer’s operations is not so great as to submerge the separate identity of the petitioned-for employees into the larger group of employees.

With respect to employee interchange, the record reflects that the Employer fills the ranks of its maintenance employees from production employees as they gain experience. Thus, it is the Employer’s policy that it only seeks outside applicants for maintenance positions when no current employees apply for the positions. Generally, the Board considers transfers between job classifications as a factor indicative of a community of interest between the classifications. However, as the Board observed in MGM Mirage, 338 NLRB No. 64 (2002):

the Board has historically accorded permanent transfers less weight than temporary interchange in assessing the community of interest shared by two groups of employees. Slip. Op. at 7, citing Ore-Ida Foods, 313 NLRB 1016, 1021, fn. 4 (1994).

Here, there is no evidence of temporary transfers between the production jobs and the jobs in the petitioned-for unit. This lack of transfers is consistent with the other qualities that separate these job classifications (duties, skill level, pay, etc.).

While the Employer does not utilize a formal training program for employees in the petitioned-for unit, the record reflects that these employees have training that comports with the requirements of their jobs, such as blueprint reading or electrical training. Additionally, there is evidence that these employees have taken courses in hazardous material handling and small space confinement training. Human Resources Manager Stravlo gave inconsistent testimony concerning hazardous materials training, asserting, first, that production employees were not required to take hazardous materials training, then later testifying that production employees did take such training. In addition to this training, it is clear that the petitioned-for employees use tools and toolboxes unique to performing their maintenance tasks. That the employees in the petitioned-for unit receive various types of maintenance training and use unique tools points to their separate community of interest and is consistent with their higher level of skill and pay.

The commonality of supervision between production and some of the maintenance employees does weigh in favor of a bargaining unit proposed by the Employer. Thus, some employees in the petitioned-for unit are supervised by Area Supervisor Collins, who essentially serves as the maintenance department manager, while the various production supervisors supervise the remaining employees depending on their department assignment. The result is that there is a mix of supervision within the petitioned-for unit and some commonality of supervision between the petitioned-for employees and the production operators.

While commonality of supervision is one determinant of a community of interest, it is not the only determinant. No single determinant is controlling. Rather, the Board

looks to all factors when determining whether the petitioned-for unit constitutes an appropriate unit. Hotel Services Group, 328 NLRB 116 (1998) (finding an appropriate unit, notwithstanding separate supervision among employees). Here, I find that the distinct function of the petitioned-for employees, coupled with their relatively high skill level and pay, is sufficient to overcome the existence of mixed supervision. In so finding, it is worth noting that the Board is not bound to find the optimum or most appropriate bargaining unit. Rather, the Act requires that the Board determine whether the employees sought by the petitioner constitute *an* appropriate unit and, if so, that the inquiry end.

CONCLUSION

Based on the foregoing, I find that the unit sought in the petition constitutes an appropriate unit of: all full-time and regular part-time maintenance employees, production technicians, tooling specialists and set-up specialists, excluding all production employees, clerical employees, guards and supervisors as defined in the Act.